



318326

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
3/11/2008	.	
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	.	

1 The Committee on Criminal Justice (Dockery) recommended the
 2 following **amendment**:

3
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
 6 and insert:

7 Section 1. Section 921.0019, Florida Statutes, is created
 8 to read:

9 921.0019 Sentencing Policy Advisory Council.--

10 (1) The Sentencing Policy Advisory Council is created
 11 within the Legislature for the purpose of evaluating sentencing
 12 policy, sentencing practices, and laws affecting or applicable
 13 to sentencing or punishment, including, but not limited to, the
 14 Criminal Punishment Code, the degree and offense severity level
 15 ranking of offenses, mandatory sentences, enhanced penalties,

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16 felony and misdemeanor reclassifications, gain-time and early
17 release mechanisms, and for the purpose of making findings and
18 recommendations on a continuing basis regarding changes to such
19 policy, practices, and laws. The council shall serve in an
20 advisory capacity to the Legislature, the Governor, and the
21 Supreme Court.

22 (2) Any recommended change to sentencing policy,
23 sentencing practices, or laws affecting or applicable to
24 sentencing or punishment must be consistent with the following
25 goals:

26 (a) Protecting public safety, including, but not limited
27 to, ensuring the incarceration of violent criminal offenders and
28 nonviolent criminal offenders who commit repeated acts of
29 criminal behavior and who have demonstrated an inability to
30 comply with less restrictive penalties previously imposed for
31 nonviolent criminal acts;

32 (b) Supporting the principles embodied in the Criminal
33 Punishment Code as described in s. 921.002(1); and

34 (c) Providing for the most cost-effective and efficient
35 use of correctional resources to the extent that such use is not
36 in conflict with the goals described in paragraphs (a) and (b).

37 (3) (a) The council shall be composed of 15 members,
38 consisting of: two members of the Senate appointed by the
39 President of the Senate; two members of the House of
40 Representatives appointed by the Speaker of the House of
41 Representatives; the Chief Justice of the Supreme Court or a
42 member of the Supreme Court designated by the Chief Justice;
43 three circuit court judges, one county court judge, and one



44 representative of the victim advocacy profession, appointed by
45 the Chief Justice of the Supreme Court; the Attorney General or
46 her or his designee; and the Secretary of the Department of
47 Corrections or her or his designee. The following members shall
48 be appointed by the Governor: one state attorney from a list of
49 three nominees recommended by the Florida Prosecuting Attorneys
50 Association; one public defender from a list of three nominees
51 recommended by the Public Defenders Association; and one private
52 attorney from a list of three nominees recommended by the
53 President of The Florida Bar. The membership of the council
54 shall reflect the geographic and ethnic diversity of the state.
55 The chair of the council shall be selected by the members for a
56 term of 1 year.

57 (b) The members of the council shall be appointed to serve
58 4-year terms, except that a legislative member's term expires
59 upon leaving office as a member of the Senate or the House of
60 Representatives.

61 (c) The council shall meet at least quarterly and other
62 meetings may be called by the chair upon giving 7 days' notice
63 to the public. The council may take public testimony.

64 (d) Members of the council shall serve without
65 compensation, but are entitled to reimbursement for per diem and
66 travel expenses, which shall be paid by the appointing entity.

67 (e) The Office of Legislative Services shall provide staff
68 support for the council. The council staff members shall consist
69 of an executive director and any other staff member determined
70 to be necessary to the completion of the council's duties,
71 subject to appropriations. Upon request of the chair of the

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72 council or the executive director, the Legislature's Office of
73 Economic and Demographic Research, the Office of Program Policy
74 Analysis and Government Accountability, the Department of
75 Corrections and any other state agency or department, and the
76 Office of the State Courts Administrator shall assist the
77 council in providing necessary data collection, analysis, and
78 research.

79 (4) On or before January 15 of each year, the council
80 shall provide a report of its findings and recommendations to
81 the Governor, the President of the Senate, the Speaker of the
82 House of Representatives, and the Chief Justice of the Supreme
83 Court. The council may provide the Legislature, the Governor,
84 and the Supreme Court with additional reports of findings and
85 recommendations at any time it deems appropriate.

86 (5) The President of the Senate or the Speaker of the
87 House may also direct the council to report by a certain date
88 the council's findings and recommendations regarding an issue
89 pertinent to sentencing policy, sentencing practice, or laws
90 affecting or applicable to sentencing or punishment.

91 Section 2. (1) On or before January 15, 2009, the
92 Sentencing Policy Advisory Council shall report to the Governor,
93 the President of the Senate, the Speaker of the House of
94 Representatives, and the Supreme Court its preliminary findings
95 and recommendations regarding the following questions:

96 (a) Should the Legislature repeal any laws providing for a
97 mandatory minimum sentence or modify such laws to provide for
98 presumptive mandatory minimum sentences or exceptions to
99 mandatory sentences in some circumstances?



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100 (b) Do mandatory sentencing laws conflict with or
101 undermine the purpose of the Criminal Punishment Code?

102 (c) Are particular criminal acts punished as more than one
103 specific offense and, if so, has this resulted in duplication,
104 confusion, or inconsistent penalties?

105 (d) Are the penalties for particular felony or misdemeanor
106 offenses disproportionate to those for other felonies or
107 misdemeanor offenses of a similar nature or severity?

108 (e) Do current enhanced penalties or felony and
109 misdemeanor reclassifications for repeat offenders result in
110 duplication, confusion, or inconsistent penalties?

111 (f) Should the Legislature preclude the courts from
112 sentencing to prison defendants convicted of third-degree
113 felonies who score under 44 total sentence points?

114 (g) Should the Legislature change the current "Truth in
115 Sentencing" gain-time restrictions specified in s.
116 944.275(4)(b)3., Florida Statutes, to more closely align with
117 the federal minimum requirements?

118 (h) Should the Legislature authorize correctional
119 probation officers to apply a continuum of administrative
120 sanctions for technical probation violations that do not affect
121 public safety?

122 (2) Findings and recommendations regarding the questions
123 described in subsection (1) are in addition to any findings and
124 recommendations the council is required to provide under s.
125 921.0019, Florida Statutes.

126 Section 3. This act shall take effect July 1, 2008.

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128 ===== T I T L E A M E N D M E N T =====

129 And the title is amended as follows:

130 Delete everything before the enacting clause
131 and insert:

132 A bill to be entitled
133 An act relating to sentencing; creating s. 921.0019, F.S.;
134 creating the Sentencing Policy Advisory Council within the
135 Legislature; requiring the council to evaluate sentencing
136 policy, sentencing practices, and laws affecting or
137 applicable to sentencing or punishment; requiring that
138 recommendations be consistent with specified goals;
139 providing membership of the council; providing for
140 selection of the chair of the council; providing for an
141 executive director and additional staff for the council,
142 subject to appropriations; providing that members of the
143 council serve without compensation, but are entitled to be
144 reimbursed for per diem and travel expenses; requiring
145 meetings and reports of findings and recommendations to
146 the Governor, the Legislature, and the Florida Supreme
147 Court; requiring the council to report its findings and
148 recommendations regarding specified questions by a
149 specified date; providing an effective date.